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2015

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Publication Information

18 Hearsay (2015)

Repository Citation

Fehn, Jada, "What to Expect at the Intersection of Law and Social Work" (2015). *Faculty Scholarship*. Paper 300.
<http://open.mitchellhamline.edu/facsch/300>

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What to Expect at the Intersection of Law and Social Work

Abstract

Hamline University School of Law recently launched a medical-legal partnership (MLP) with United Family Medicine (UFM), a community clinic on West Seventh Street. UFM is a nonprofit provider of primary health care that strives to meet the needs of the medically uninsured, underinsured, and underserved residents of Saint Paul. One of the main components of the partnership is a law school clinic that will provide legal assistance and educate student attorneys as part of a holistic approach to medical care.

Keywords

Legal clinics, Community health clinics

Disciplines

Health Law and Policy | Legal Education

What to Expect at the Intersection of Law and Social Work

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Hamline University School of Law recently launched a medical-legal partnership (MLP) with United Family Medicine (UFM), a community clinic on West Seventh Street. UFM is a nonprofit provider of primary health care that strives to meet the needs of the medically uninsured, underinsured, and underserved residents of Saint Paul. One of the main components of the partnership is a law school clinic that will provide legal assistance and educate student attorneys as part of a holistic approach to medical care.

UFM is remarkable for the intensive social work services they provide through a team of five patient advocates. The advocates help clients address issues like substance abuse, family violence, homelessness, medical care costs, lack of education, and employment. Many of the problems the patients of the clinic face result in legal issues, which creates a huge opportunity for collaboration between the legal staff and the advocate team. This article aims to explain the value that social workers can bring to legal practice and prepare attorneys for the experience of social work collaboration.

Background

My present position as managing attorney of the MLP is not the first legal position I have held in which social workers were integral to helping clients. As a law clerk in Mental Health Court, I saw how the social workers who were assigned to each case provided some of the most necessary components for the case resolution. It would be pointless to order a patient to get treatment without having arranged an appropriate placement with the services the client needed to start recovery. Their efforts made the court process run much more smoothly, but it was just one part of the large system in which we worked. The social workers in mental health court were employed by the county and therefore aligned with the petitioner for civil commitment. Consequently, as a member of the court team, I was shielded from some of the day-to-day work.

As soon as I was on the job in the MLP, I learned that the patient advocate team at UFM is a great ally. The advocates are really in tune with their patients' needs and they understand where a legal intervention could truly benefit a client. The team was already making referrals to some legal services providers, such as the Immigrant Law Center and Southern Minnesota Regional Legal Services, so the integration of the legal clinic was a natural fit. As an attorney, I brought broader awareness of the range of specialized legal services available in the St. Paul area.

Symbiotic relationships like these are obviously beneficial to the client. Nora Bedard, a Patient Advocate at UFM says, "I look at the legal-social service-advocacy relationship as creating a wider, strong web of support for low-income families and individuals, helping them in complex, big systems that are sometimes unjust and extremely difficult to navigate." Multidisciplinary practice is on the rise.¹ Looking to the future, more lawyers will find themselves working in

¹ Spencer Rand, *Hearing Stories Already Told: Successfully Incorporating Third Party Professionals in the Attorney-Client Relationship*, 80 Tenn. L. Rev. 1, 2 (Fall 2012).

situations where they benefit from the skill of social workers. The legal community needs to be proactive and prepared for the way social workers will influence the practice of law in coming years.

Ethical Considerations

Much has been written about the ethics of lawyers working with social workers,² but it is worth giving a brief overview of three main concerns here. In a situation like the MLP, in which the attorneys and the social workers are employed by separate entities and only collaborate on the referral process, ironing out these issues up front is crucial to good client outcomes and avoiding ethical problems.³

First, the lawyer's duty to maintain confidentiality should be acknowledged.⁴ Rules 1.6(b) and 1.4 of the Minnesota Rules of Professional Conduct prohibit revealing privileged client information without informed consent and require that the client be promptly informed of "any decision or circumstance" which triggers the requirement of client informed consent. A proper waiver or authorization should be used any time disclosure or sharing of information is necessary. For example, at the first MLP screening meeting, the client is asked to sign an authorization allowing the Hamline attorney to share very basic status information with clinic staff. The release allows the attorney to tell the referring provider and the patient advocates if contact was made with the client, if Hamline will provide representation, and if the client was referred to another legal services organization.

Another concern is maintaining attorney-client privilege. Any communications between the client and the attorney, when the social worker is also present, could lose the status of privilege. The risks of this must be made clear to the client,⁵ but there may be cases where the benefits of waiving privilege outweigh the risks.⁶

Lastly, attorneys and social workers are guided by separate obligations. Attorneys are guided first and foremost by a client's requests and goals, while social workers serve the best interests of the client, which may be different in some situations. This issue often arose in mental health court. The client who was the subject of the petition for civil commitment may have been completely opposed to staying in the psychiatric unit of the hospital and his attorney would have to zealously advocate for his release. The social worker, on the other hand, may have clearly understood that the client was in no position to make a rational decision about treatment and it was in his best interest to stay in the safety of the unit and receive stabilizing treatment. Each professional must operate under their duty, even though the two objectives are in conflict.

² See Maryann Zavez, *The Ethical and Moral Considerations Presented by Lawyer/Social Worker Interdisciplinary Collaborations*, 5 Whittier J. Child & Fam. Advoc. 191 (2005); Alexis Anderson et al., *Professional Ethics in Interdisciplinary Collaboratives: Zeal, Paternalism, and Mandated Reporting*, 13 Clinical L. Rev. 659 (2007).

³ Lawyers and social workers can work in many arrangements. For example, if a firm employed a social worker as a client interviewer, a different ethical stance could be established. The social worker would be an agent of her supervising attorney and adopt his or her ethical obligations.

⁴ The January 2015 Tip of the Month by Volunteer Lawyers Network is great resource for more information about informed consent and a sample *Authorization for Release or Exchange of Information* form.

⁵ Rand, *supra* note 1 at 24 (going into great depth about balancing privilege with improved communication.)

⁶ *Id.* at 4 ("In some cases, breaching the privilege does not matter to the client or is such a remote possibility that is should not overwhelm the benefits of working effectively with clients.").

Shared Orientation

One of the main things that lawyers and social workers share is the orientation of our work. We see clients because there are disruptions in their lives and we are expected to find solutions to their problems. Both lawyers and social workers are a resource to people in their times of greatest need and face clients who are needy, desperate, defensive, scared, and struggling. Because of this shared orientation, lawyers should recognize many similarities in the values that social workers bring to their work.

Best Interests Standard

One of the biggest differences that lawyers will recognize while collaborating with social workers is how the best interest standard influences their practice. Instead of addressing the immediate desire that a client expresses, like a lawyer does, a social worker is expected to think about the bigger picture of the client's needs. For example, a social worker may assess a client's mental state at the beginning of each meeting to ensure that the client is emotionally stable. A lawyer may also notice that a social worker seems focused on the larger community needs and goals. As Osiris Jiminez, a Patient Advocate at UFM explained, being sensitive and respectful to community values, beliefs and fears is crucial to good social work relationships. For those in direct client practice this might feel a bit foreign, but it is not that different from legal advocacy work on the policy level. Attorneys providing technical assistance with no definitive client, such as those in community advocacy roles, also strive to be in tune with broad societal values and beliefs.

Connection to Clients and Community

Because attorneys help clients with problems every day, we may feel that we are very in tune with the needs of our community. In reality, we see only the problems that rise to a legal issue and often only in a particular specialty area. Stacy Brustin, Associate Professor at Columbus School of Law, pointed out that a client and a lawyer may narrowly see a problem as “legal.”⁷ Social workers are really aware of what is affecting the lives of their clients on a grander scale. As Connie Walsh, the Lead Patient Advocate at UFM, wrote, “the needs of this patient and or his [or] her family” is a matter of trust. Because many social workers address a wider array of issues, attorneys can look to them to provide insight on what community issues are really problematic and disruptive so that broader solutions can be activated to help more people.

Client Interviews

Social workers are very adept at teasing out the needs and values of patients through interviews. Spencer Rand calls this “learning clients’ stories,” which may be valuable for an attorney. For example, an attorney may want to use this narrative as a litigation strategy. Rand explains how social workers do most of their work by talking with and counseling patients over multiple visits. “What clients do not reveal because it is traumatic or because no one thought to ask may also come out when working with a professional.”⁸ Social workers often spend more time with

⁷ Stacy Brustin, *Legal Services Provision Through Multidisciplinary Practice—Encouraging Holistic Advocacy While Protecting Ethical Interests*, 73 U. Colo. L. Rev. 787, 794 (Summer 2002).

⁸ Rand, *supra* note 1 at 20.

clients, giving them a chance to develop a bond and find ways to gather important client information.

Conclusion

Social workers can bring a lot to collaborative practice relationships with attorneys. By tapping into their community insight, client knowledge, and strong interview skills, lawyers can improve their understanding of clients' problems. Joanna Woolman, Director of the Child Protection Program at William Mitchell College of Law, put it best. "Social workers enrich my practice. I hope I never have to work without them again."



Jada Fehn is a clinical instructor at Hamline School of Law and the managing attorney of the medical-legal partnership with United Family Medicine. Jada is also a Hamline graduate, where she completed a Health Law Certificate along with her JD. In school, Jada served as a Primary Editor on the Journal of Law and Policy and led several student organizations. Jada's student experience as a law clerk in a drug and device products liability firm and a policy intern at the U.S. Food and Drug Administration, helps her understand the legal system to better serve her clients.

Jada has served as a law clerk in the Fourth Judicial District mental health division. In 2014, she was awarded the prestigious Public Health Law Fellowship position with the Robert Wood Johnson Foundation, to spend a year with the Office of the General Counsel at the New York City Department of Public Health and Hygiene.